

City of Bellevue



MEMORANDUM

Date: April 20, 2015

To: Mayor Balducci and City Councilmembers

From: Lori Riordan, City Attorney
Myrna Basich, Assistant City Manager/City Clerk

Subject: Council's consideration of the permit applications by Puget Sound Energy for a 115 kV overhead transmission line connecting the Lake Hills and Phantom Lake Substations

Before you this evening at Item 10(a) is discussion and action on the Hearing Examiner's recommendation to approve, with Conditions, PSE's applications for a Conditional Use Permit and a Shoreline Conditional Use Permit to construct a new 115 kV overhead transmission line connecting the existing Lake Hills and Phantom Lake substations. The required public hearing on the applications was held on November 20 and the Hearing Examiner issued Findings, Conclusions, and his Recommendation on December 19, 2014. No appeals were filed. **Because the record on this matter officially closed with the issuance of the Examiner's Recommendation, no additional evidence or public comment can be considered by Council in rendering a decision on the Examiner's Recommendation.**

As a reminder, applications for Conditional Use Permits within the jurisdiction of the East Bellevue Community Council follow Process 3, which is characterized by a Hearing Examiner recommendation that may be appealable to City Council (not done in this case) or presented to Council for decision. If approved by Council, the application then moves to the East Bellevue Community Council for consideration and decision. The Community Council's decision may be appealed to Superior Court.

As a further reminder, this is a quasi-judicial matter in which the Council acts as judges and must maintain fairness and impartiality. As noted earlier, staff have been capturing communications received by the full Council at the Council@Bellevuewa.gov address and your individual City email accounts, and will be prepared to report out on them so you need not individually disclose these contacts. Any ex parte communications you have received individually, either in person, via phone, on personal email accounts or via other formats, will need to be disclosed at the introduction of this item on the agenda. If any ex parte communications are to be disclosed, Councilmembers should be prepared to state the following on the record:

- Names of persons with whom the communications occurred,
- Whether the communications were written or oral, and
- The substance of the communications (if written, include emails or the written documents; if voicemail, include a transcript if one exists).

Please contact City Attorney Lori Riordan at 452-7220 or Myrna Basich at 452-2733 if you have questions or need additional information about any of the above process-related information.

Council decision on the application

The Council shall accord substantial weight to the recommendation of the Hearing Examiner. You may request the attendance of the Hearing Examiner and ask any questions that you have of him regarding his findings, conclusion and recommendation.

Alternatives:

1. The Council may **approve the application** on the affirmative vote of a majority of the Council. If approved, the Council shall adopt an Ordinance including findings and conclusions that support its decision. The Council may adopt some or all of the findings and conclusions of the Hearing Examiner by reference; or
2. The Council may **approve the application with modifications**, including additional conditions to ensure the proposal conforms with the applicable decision criteria of the Land Use Code; or
3. The Council may **remand the application** to the Hearing Examiner and/or the Director for additional information, limited to specific issues identified by the Council; or
4. The Council may **deny the application**. Should Council determine to deny the application, the typical action is adoption of a Resolution reflecting the denial. Council denial of the application will result if less than a majority of the Council supports the decision in whole or in part. The Resolution shall include findings and conclusions that support Council's decision.

Staff seeks direction to prepare appropriate legislation reflecting Council's decision.

If you have any questions about the process, please contact City Attorney Lori Riordan by email or at 452-7220.

cc: Brad Miyake, City Manager
Kate Berens, Deputy City Manager
Pam Bissonnette, Interim Deputy City Manager